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COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Twentieth session

SUMMARY RECORD OF THE 10th MEETING

**Held at the Palais des Nations, Geneva,
on Friday, 30 April 1999, at 3 p.m.**

Chairperson: Mr. CEAUSU

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The meeting was called to order at 3.10 p.m.

SUBSTANTIVE ISSUES ARISING IN THE IMPLEMENTATION OF THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS (agenda item 7) (continued)

Draft decision recommended for adoption by the Economic and Social Council (continued)

1. The CHAIRPERSON said that prior to discussing the text of the draft decision relating to an additional third session of the Committee, an agreement needed to be reached on the substance of the recommendation. Should a request be made for an extraordinary session or for a regular session, whereby the Committee would hold three sessions every year including one in New York?

2. Mr. WIMER ZAMBRANO said that a request should be made for a regular third annual session. It was better to adopt a direct strategy since there were strong arguments in favour. For example, it could be stated that 139 States parties had ratified the Covenant and that the Committee could review no more than 10 country reports each year in the course of its two sessions. That meant that a country's second report could only be heard 14 years after the first one. Furthermore, even though the backlog of reports was not as great as had been feared, it was very difficult in the same time to review the implementation of the Covenant and to revise its content.

3. Mr. AHMED, referring to the form of the Committee's draft decision, said that it was undiplomatic to issue a simple request to the Economic and Social Council. It would be more appropriate for the Committee to make its request in the form of a letter enclosing a draft of the decision to be considered by the Economic and Social Council. The chances of acceptance would be that much greater. The letter could be signed by the Chairperson of the Committee or by the High Commissioner for Human Rights.

4. As regards the substance of the draft decision, certain changes should be made in order to incorporate more information and strengthen the relevant arguments. In the accompanying letter, it could be pointed out that the Human Rights Committee, the sister committee of the Committee on Economic, Social and Cultural Rights, already held three sessions per year, including one in New York. It was also very important to request as much as possible, in other words a regular third annual session, so as to obtain at least the minimum in the form of an extraordinary third session.

5. Mr. TEXIER said that the only matter to be decided was that of the Committee's strategy in submitting the draft decision. Everyone was aware of the arguments of substance put forward. If a decision were taken to submit a direct request, budgetary concerns should not be forgotten. All previous rejections of Committee proposals had occurred for such reasons. As regards the form of the draft decision, it should continue to be included in the Committee's report, since the Committee was dependent on the Economic and Social Council. A letter might be appropriate, but the request should also be reiterated in the traditional manner. It should also be stated that if an additional session were not possible, the backlog of reports to be reviewed by the Committee would increase even further. The most important objective,

however, was to develop a strategy; for example, the budgetary arguments could be opposed by requesting an extraordinary third session for the year 2000 only. Finally, as part of the strategy, the Working Group which examined the reports of States parties six months before the Committee and prepared general comments should be included in the Committee's report instead of being the subject of a direct request to the Economic and Social Council.

6. The CHAIRPERSON said that it might be possible to combine the two strategies proposed by Mr. Ahmed and Mr. Texier; the draft decision could be included in the Committee's report and forwarded, together with a letter, to the Chairperson of the Economic and Social Council from the Committee's Chairperson.

7. Mr. RIEDEL expressed surprise at the request made by the Economic and Social Council to the Committee for updated versions of its draft decisions. The request could be viewed in both a positive and a negative light. It might be the case that the Economic and Social Council did not want to say no directly to the request made for an extraordinary additional session. By contrast, it could simply be attempting to postpone the matter and, in that regard, guidance would be appreciated from the secretariat.

8. Mr. TIKHONOV (Secretary) recalled that in 1996 the Committee had adopted four draft decisions for consideration by the Economic and Social Council. Thus, a channel of communication had been established between the subsidiary and parent bodies. The Committee had previously decided that all requests to the Economic and Social Council would be formulated as draft decisions. That was a tried and tested technique and facilitated the latter's work. Once a draft decision had been submitted, it was published as an Economic and Social Council document. Furthermore, the motives underlying any decision by the Committee should be included in the preliminary part of its report.

9. The four requests made by the Committee to the Economic and Social Council in 1996 had all had financial implications. The Council might have considered that too many requests had been made at the same time. It had then postponed consideration of the matter until its 1998 session, when it had merely asked the Committee for updated versions of the draft decisions. That fact could serve as an indication to the Committee that it should set priorities, i.e. submit only the most important draft decision. Priority should clearly be attached to requesting a third additional regular session. Reference could be made to the practice of the Human Rights Committee, which held a third regular session in New York. Once the necessary priorities had been indicated, it would be much easier for the Economic and Social Council to reach a decision. The Council would not need to refer the matter to the General Assembly, since it had sole responsibility for deciding matters with financial implications.

10. The CHAIRPERSON reiterated that it was important to give a convincing explanation of the motives for the draft decision.

11. Mr. TIKHONOV (Secretary) said that it would be a good idea to prepare the draft decision separately and also to include it in the section of the Committee's report reviewing its work. Detailed explanations of the rationale behind the decision could then be added.

12. Mr. RIEDEL reiterated that it was necessary to present a clear draft of the decision so that it might be more easily adopted. An explanatory note or letter from the Committee's Chairperson could be attached. It was also important to decide whether the financial implications of the decision should be clearly stated in the accompanying letter.

13. If the Economic and Social Council were not able to approve the request for a regular additional session, a subsequent request should be made for a third session on an occasional basis. Conversely, it would also be possible to request an extraordinary session immediately in the hope that that would give rise to a permanent session in the future. Whatever strategy was adopted, a precedent of holding a third session should be set. The wording of the current draft decision was not terribly convincing. Moreover, the negative profile shown by the Committee in relation to the Human Rights Committee should be dispelled. All things considered, the best strategy might be to request a move from an initial extraordinary session to a permanent one, while emphasizing that the possible financial obstacles to such a move were clearly understood.

14. The idea of establishing priorities with regard to the Committee's four previous requests was a good one. However, reference should certainly be made to the remaining three decisions in the letter accompanying the draft relating to a third annual session.

15. Mr. TIKHONOV (Secretary) reminded members that once a draft decision had been adopted by the Committee, the financial services of the United Nations would prepare a document on its implications before it was submitted to the Economic and Social Council.

16. Mr. RIEDEL emphasized that one of the main reasons for holding a third session in New York was that it would attract a different audience. Whereas in Geneva many of the Permanent Missions had human rights experts owing to the presence of a large number of treaty bodies, many of the developing countries concentrated their representation in New York. That should be included as an argument in support of the draft decision.

17. Mr. ANTANOVICH, commending the wording of the draft decision, said that nevertheless a limitation was placed on the Committee. The Economic and Social Council was already aware of the Committee's wish for a third regular session. If too cautious an approach were adopted, the axe of financial implications would fall immediately. The emphasis should be placed on statistics concerning the backlog of reports pending for consideration, which explained the need for a third session. It was true that in North America, many non-governmental organizations would be able to participate in discussions, just as the country delegations would contain a larger number of experts. If the session were publicized appropriately, more countries would feel inclined to fulfil their obligations under the Covenant. Finally, the draft decision should be included in the Committee's report and submitted to the Economic and Social Council with a letter from the Committee, which could perhaps be countersigned by the High Commissioner for Human Rights to add greater political weight.

18. Mr. ATANGANA said that, in light of the discussions so far, the issue was not as difficult as it seemed. The Committee was simply asking for its request to be recorded and the only foreseeable problems were problems of principle, such as budgetary constraints. As to the form of the request, it would be advisable to follow customary practice.

19. Mr. WIMER ZAMBRANO said that the positions seemed to be well-defined and that none of the proposals made were incompatible with what the Committee wanted. The question was whether the Committee wished to have an extraordinary or an additional ordinary session. Personally, he was in favour of asking for an additional ordinary session. The Committee could not lobby the Economic and Social Council and a number of circumstances were beyond the Committee's control. However, it might be wise to ask for "everything" in order to obtain "something". If the Committee requested an additional annual session, the Council might refuse the request for budgetary reasons, but might grant the Committee an extraordinary session for 2000. As was said before, it was simply a matter of strategy and both strategies were valid. That seemed to be the only point on which the Committee was divided and so it remained only for the Committee to decide on a majority position.

20. Mrs. JIMENEZ BUTRAGUEÑO, agreeing with Mr. Wimer Zambrano, said that since one would always obtain less than one requested, it would be better to ask for more.

21. Mr. AHMED said that there appeared to be consensus and asked for confirmation that the Committee would prepare a letter, signed by the United Nations High Commissioner for Human Rights, Mrs. Mary Robinson, enclosing a draft resolution. He was more in favour of a letter, as a letter was more flexible and diplomatic than a draft resolution. The Committee Secretary had said that the Committee needed to include a draft resolution recommending that the Economic and Social Council issue another draft decision. The draft should cover all the arguments, including Mr. Wimer's points, put forward in favour of New York, namely the fact that it represented a different potential constituency, that there were more Government delegations there, as well as more non-governmental organizations and international media representations, and the fact that the Committee's sister committee held one in every three sessions in New York. To further strengthen the arguments, the draft resolution should mention the number of reports already considered by the Committee, the number pending, the size of the backlog of reports and the length of time it would take the Committee to complete them.

22. Mrs. JIMENEZ BUTRAGUEÑO, while acknowledging her ignorance of procedural matters, said that the letter and the draft decision were not incompatible. Whereas the former might be more appropriate, the draft decision was indispensable.

23. The CHAIRPERSON said that he had been reminded by the Committee Secretary that it was not within the remit of the High Commissioner for Human Rights to write such a letter on behalf of an independent committee. The Committee Chairperson was free to consult with the High Commissioner but the Committee itself should prepare a draft decision including all possible arguments.

24. Most Committee members seemed to be in favour of submitting a maximum request, which would solicit a third permanent session each year. Perhaps the Economic and Social Council might approve the request for two or three years on an experimental basis. The Committee had 21 reports to be examined, which would require a time-frame of two years (at the rate of 5 reports per session and 10 per year). If the Committee prepared a draft decision promoting a third permanent annual session to be held in New York, ECOSOC might well approve the third session and refuse New York as the venue, thus leading to a compromise.

25. He proposed that the Committee proceed with drafting the text and asked Mr. Hunt, who had prepared the initial text, to read it out to the Committee.

26. Mr. HUNT said that the draft had been prepared almost entirely on the basis of previous draft decisions of the Committee and that a few changes had been introduced to embrace the previous days' discussions.

27. After reading out the draft, he noted that, whereas the decision reflected the initial discussions, the Committee appeared to be tending towards a request for a permanent session in New York.

28. The CHAIRPERSON said that the text had been initially prepared with the intention of requesting an extraordinary meeting in 2000. However, the majority opinion seemed to be in favour of requesting a third permanent session. As it was not possible to prepare a new draft decision in the meeting itself, perhaps the meeting could be adjourned at that point and the Rapporteur would revise the draft decision to reflect the majority opinion and the main arguments submitted in favour of the proposal.

29. Mr. WIMER ZAMBRANO endorsed the Chairperson's suggestion in the interests of time and efficiency. However, he thought the priority should be placed on the importance of having an additional session rather than on holding such a session in New York, as opposed to the order of priority given in the draft decision.

30. The CHAIRPERSON agreed and said the arguments should be advanced in a logical order, beginning with a justification for a work method consisting of three permanent sessions, followed by the request for the third session to be held in New York, near the end of the preamble. In addition, it was not customary to use the phrase "Welcoming the adoption ..."; instead, "Recalling" the fact that the Committee had taken certain decisions in May 1997 would be preferable.

31. Mr. TEXIER said that the section of the draft decision justifying the request should briefly mention the indivisibility of human rights. Approximately the same number of States were parties to the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, so that it was only natural that the corresponding Committees should have an equal number of sessions, so as to put the two sets of rights on an equal footing. The request should not be seen to represent any sense of rivalry vis-à-vis the Human Rights Committee but instead should refer to the indivisibility of rights.

32. The CHAIRPERSON, upon the recommendation of the Committee Secretary, said that a reference might be included in the preamble of the recommendations of the Vienna Declaration and Plan of Action on the interdependence of human rights.

33. Mrs. JIMENEZ BUTRAGUEÑO, agreeing with the Chairperson, said that the emphasis should be placed first on the backlog of reports and then on the New York venue.

34. Mr. ATANGANA said that the preamble should be brief and to the point, thereby hopefully prompting a quick decision on the part of the Economic and Social Council.

35. The CHAIRPERSON, by way of clarification, said that the Committee's resolution would not be published with the decision. However, the Economic and Social Council needed to furnish reasons to Governments, member States and others who provided funds for United Nations activities. That was why the Committee needed to present justifying arguments.

36. The mention of late reports was not in the Committee's favour, as it could cast doubts on its efficiency. It would be more prudent to say that the growth in the number of States parties from 80 to 140, had given rise to an increased workload and thence to the need for an extra session. He solicited further ideas for the revised draft.

37. Mr. MARCHAN ROMERO said that, in view of the repeated mention of the Committee's unique capital in terms of the members' years of experience, a phrase might be inserted mentioning that factor, alongside the need for an extra annual session to catch up with the backlog of work.

38. The Committee should take the bull by the horns and mention that, in view of the budgetary constraints, it realized that it should focus on the main priority, which in that case was the need for an additional session. The final decision would rest with the Economic and Social Council but the Committee should make clear that it was aware of the budgetary constraints involved. With respect to the order, the draft decision should start with the existing fifth paragraph "Concerned that ...", followed by the arguments in favour of an extra session and then the reasons for holding the session in New York.

39. The CHAIRPERSON said that no mention should be made of the Human Rights Committee, but simply that another session was required to facilitate the Committee's task. Were there any other suggestions for the revised draft?

40. Mr. WIMER ZAMBRANO said that no new arguments should be presented but that the text should rather be shortened, if anything.

41. Mr. RIEDEL said that he agreed with most of what had been said, except that the third paragraph of the draft decision beginning "Noting that ..." required considerable redrafting in order to make it more substantial.

42. The CHAIRPERSON said that he believed Mr. Hunt had received a sufficient number of ideas for redrafting the decision, bearing in mind that he also had to redraft the proposal on right to education indicators.

43. Mr. HUNT said that he would try to accommodate all comments. He thanked Mr. Ahmed for his written suggestions and said he welcomed other written comments. He promised to prepare the revised draft for the following week.

44. The CHAIRPERSON urged Committee members to submit their comments to the Rapporteur.

The meeting rose at 4.25 p.m.